
SENATE BILL No. 375

DIGEST OF INTRODUCED BILL

Citations Affected: IC 27-1; IC 27-5; IC 27-5.1; IC 27-6; IC 27-8-8-2; IC 34-30-17-1.

Synopsis: Farm mutual insurance companies. Provides for the establishment, operation, and regulation of farm mutual insurance companies. Authorizes a farm mutual insurance company to sell insurance in incorporated areas. Provides a procedure through which a standard farm mutual insurance company may become an extended farm mutual insurance company. Authorizes an extended farm mutual insurance company to write extended lines of coverage, including liability insurance. Repeals the former law concerning farmers' mutual insurance companies. Makes conforming amendments.

Effective: July 1, 2002.

Ford

January 10, 2002, read first time and referred to Committee on Insurance and Financial Institutions.

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Introduced

Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

SENATE BILL No. 375

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 27-1-6-15 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 15. (a) Except as
3 provided in subsection (b) a domestic mutual company that organized
4 before July 1, 1977, must maintain a surplus of not less than two
5 hundred fifty thousand dollars (\$250,000). This subsection does not
6 apply to a **farm mutual insurance** company that is organized under
7 IC 27-5 (**before its repeal**) or IC 27-5.1.

8 (b) A domestic mutual company that organized before July 1, 1977,
9 must maintain a surplus of not less than:

10 (1) seven hundred fifty thousand dollars (\$750,000), if it markets
11 one (1) or more kinds of insurance under both Class II and Class
12 III, other than Class II(k) insurance;

13 (2) one million dollars (\$1,000,000), if it markets one (1) or more
14 kinds of insurance under Class II, including Class II(k) insurance;

15 or

16 (3) one million dollars (\$1,000,000), if it markets one (1) or more
17 kinds of insurance under both Class II and Class III, including

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Class II(k) insurance.

(c) A domestic mutual company that organized after June 30, 1977, must maintain a surplus of not less than one million two hundred fifty thousand dollars (\$1,250,000). However, when it organizes, it must:

(1) have a surplus of not less than two million dollars (\$2,000,000);

(2) for the one (1) or more kinds of insurance under Class I that it intends to market, have received applications for insurance from not less than four hundred (400) persons, each application for an amount not less than one thousand dollars (\$1,000), and have received the first year's premium due on a policy to be issued on each such application; and

(3) for the one (1) or more kinds of insurance under Class II or Class III that it intends to market, have received applications for insurance covering not less than eight hundred (800) separate risks in not less than forty (40) policies to be issued to not less than forty (40) members, and have received premiums amounting to not less than one hundred thousand dollars (\$100,000) for those policies.

(d) A domestic mutual company must deposit with the department in cash or in obligations of the United States:

(1) twenty-five thousand dollars (\$25,000), if it organized before June 30, 1955;

(2) fifty thousand dollars (\$50,000), if it organized after June 29, 1955, and before March 7, 1967; or

(3) one hundred thousand dollars (\$100,000), if it organized after March 6, 1967.

This subsection does not apply to a **farm mutual insurance** company that is organized under IC 27-5 (**before its repeal**) or **IC 27-5.1**.

(e) If the commissioner determines that the continued operation of a domestic mutual company may be hazardous to the policyholders or the general public, the commissioner may, upon the commissioner's determination, issue an order requiring the insurer to increase the insurer's capital and surplus based on the type, volume, and nature of the business transacted.

SECTION 2. IC 27-1-20-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 26. The provisions of this article shall not apply to any farmers' mutual hail insurance company, farmers' mutual fire insurance company, or farmers' mutual windstorm insurance company, or any similar company organized and operating under IC 27-5 (**before its repeal**) or **IC 27-5.1**, nor to any mutual fire insurance company confining its business to the town or

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city in which its home office is located, nor shall any provision of this article be construed as repealing any provision of the statutes applicable to the companies and associations referred to in this section.

SECTION 3. IC 27-1-22-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2. (a) This chapter applies to all forms of casualty insurance including fidelity, surety, and guaranty bonds, to all forms of motor vehicle insurance, to all forms of fire, marine, and inland marine insurance, and to any and all combinations of the foregoing or parts thereof, on risks or operations in this state, except:

(1) reinsurance, other than joint reinsurance to the extent stated in section 14 of this chapter;

(2) accident and health insurance;

(3) insurance of vessels or craft, their cargoes, marine builders' risks, marine protection and indemnity, or other risks commonly insured under marine, as distinguished from inland marine, insurance policies;

(4) insurance against loss or damage to aircraft or against liability arising out of the ownership, maintenance, or use of aircraft;

(5) worker's compensation insurance; and

(6) abstract and title insurance.

(b) Inland marine insurance includes insurance defined by statute, or by interpretation of statute, or if not so defined or interpreted, by ruling of the commissioner of insurance (referred to as the commissioner), or as established by general custom of the business, as inland marine insurance.

(c) This chapter shall not apply to farmers' mutual insurance companies organized and operating under IC 27-5 (**before its repeal**) or IC 27-5.1 unless and only to the extent that ~~IC 27-5~~ IC 27-5.1 specifically provides that such companies are subject to

~~(1) this chapter.~~

~~(2) Acts 1947, c.60; or~~

~~(3) Acts 1947, c.111.~~

SECTION 4. IC 27-5.1 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]:

ARTICLE 5.1. INDIANA FARM MUTUAL INSURANCE COMPANIES

Chapter 1. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "Assessment" means an amount or a policyholder's share



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of an amount that a farm mutual insurance company determines is necessary for any of the following:

- (1) To pay the farm mutual insurance company's accrued liabilities.
- (2) To meet or defray the farm mutual insurance company's anticipated needs.
- (3) To add to or restore the policyholder surplus of the farm mutual insurance company.

Sec. 3. "Certificate of authority" has the meaning set forth in IC 27-1-2-3(v).

Sec. 4. "Commissioner" means the insurance commissioner appointed under IC 27-1-1-2.

Sec. 5. "Department" means the department of insurance created by IC 27-1-1-1.

Sec. 6. "Extended company" means a farm mutual insurance company that may provide multiple line insurance coverage under IC 27-5.1-4 in addition to providing insurance coverage under IC 27-5.1-3.

Sec. 7. "Farm mutual insurance company" means a company (as defined in IC 27-1-2-3) that is authorized to provide insurance coverage under this article.

Sec. 8. "First class city" refers to a first class city as classified under IC 36-4-1-1.

Sec. 9. "Initial charge" means a charge that is collected by a farm mutual insurance company before or at the time of the issuance or renewal of an insurance policy under this article.

Sec. 10. "Person" means an individual or a business entity.

Sec. 11. "Policyholder" means a person who:

- (1) holds a contract for insurance; or
- (2) is insured by an insurance company other than a stock corporation.

Sec. 12. "Policyholder surplus" means a fund consisting of the accumulated assets of a company that exceed the company's accrued losses and expenses.

Sec. 13. "Premium" means money given in consideration to a company on account of or in connection with a contract of insurance for a specified policy period.

Sec. 14. "Premium plus assessment" refers to an insurance policy under which the policyholder is:

- (1) obligated to pay a premium; and
- (2) subject to potential assessment.

Sec. 15. "Principal office" means the primary office maintained

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by a farm mutual insurance company in Indiana.

Sec. 16. "Standard company" means a farm mutual insurance company that may provide insurance coverage under IC 27-5.1-3. The term does not include an extended company.

Chapter 2. Farm Mutual Insurance Companies

Sec. 1. This chapter applies to a farm mutual insurance company regulated under this article.

Sec. 2. (a) A farm mutual insurance company that holds a certificate of authority to do business in Indiana on June 30, 2002, is a standard company under this article unless the company elects to become an extended company under IC 27-5.1-4 and is authorized by the commissioner to do business as an extended company.

(b) A standard farm mutual insurance company under subsection (a) may elect to become an extended farm mutual insurance company at any time by complying with IC 27-5.1-4-2(b).

(c) An election made under this section is effective upon the date the commissioner issues the new certificate of authority.

Sec. 3. (a) If a proposed farm mutual insurance company does not hold a certificate of authority to do business in Indiana on June 30, 2002, an application may be made to the commissioner for a certificate of authority for the proposed farm mutual insurance company to do business in Indiana as one (1) of the following:

- (1) A standard company.
- (2) An extended company.

(b) Three (3) copies of the application must be submitted to the commissioner. The application must contain the following concerning the proposed farm mutual insurance company:

- (1) The name.
- (2) The location and address of the principal office.
- (3) The names and addresses of the officers and directors.
- (4) A copy of the articles of incorporation.
- (5) A copy of the bylaws.

(c) A standard company, not earlier than three (3) years after it is granted a certificate of authority to do business as a standard company, may elect to obtain a certificate of authority to do business as an extended company if the standard company:

- (1) has an annual direct written premium of more than one million dollars (\$1,000,000); and
- (2) complies with IC 27-5.1-4-2.

Sec. 4. A farm mutual insurance company that is established

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after June 30, 2002, must have at least:

- (1) two hundred fifty (250) applications for insurance policies;
and
- (2) one hundred thousand dollars (\$100,000) in annual direct
written premiums;

before issuing any insurance policy.

Sec. 5. (a) A farm mutual insurance company has all the powers, rights, privileges, duties, and obligations of a company organized under IC 27-1-6 except where IC 27-1-6 is contrary to this article.

(b) A farm mutual insurance company has the following:

- (1) The power to borrow money.
- (2) The ability to sue or be sued.
- (3) The power to make contracts of insurance or indemnity
with:
 - (A) a person;
 - (B) a firm;
 - (C) a public corporation;
 - (D) a private corporation;
 - (E) a board;
 - (F) an association;
 - (G) an estate; or
 - (H) a trustee or legal representative of an estate.
- (4) The power to cede or obtain reinsurance from any
company legally operating in Indiana or in any other state.
- (5) The power to participate with a financially stable
insurance company in:
 - (A) a reinsurance pool;
 - (B) a plan for reinsurance; or
 - (C) catastrophe protection.
- (6) The power to determine the qualifications and the manner
in which to admit or withdraw policyholders.
- (7) The power to use a common seal, which the farm mutual
insurance company may change or alter.
- (8) The power to purchase, lease, hold, and dispose of:
 - (A) real property; and
 - (B) personal property;
 for use in carrying out the purpose of the farm mutual
insurance company in the farm mutual insurance company's
name or in the name of a trustee chosen by the board of
directors.
- (9) The power to classify risks according to the hazards
involved.

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(10) The power to establish rates according to the classification of risk.

(11) The power to determine rules and regulations on the acceptability of risk and hazards insured.

(12) The power to determine the cost of insurance issued by the farm mutual insurance company and the adjustment and payment of losses.

(13) The power to determine the compensation of the directors and officers of the farm mutual insurance company.

(14) The power to require that the directors and officers of the farm mutual insurance company be bonded in the performance of the duties of the directors and officers.

(15) The power to adopt or amend bylaws and articles of incorporation of the farm mutual insurance company.

(16) The power to adopt or amend policy forms and application forms used by the farm mutual insurance company.

(17) All other powers necessary to effect the purposes of the farm mutual insurance company.

Sec. 6. A farm mutual insurance company with an annual direct written premium of more than fifteen million dollars (\$15,000,000) may not function as a farm mutual insurance company and shall be regulated as a multiple line insurance company described in IC 27-1-6-16.

Sec. 7. Except as provided in section 8 of this chapter, a farm mutual insurance company that operates under this article is exempt from any other Indiana insurance law unless the law expressly declares that the law is applicable to farm mutual insurance companies.

Sec. 8. The following sections apply to standard companies and extended companies:

(1) IC 27-1-3.

(2) IC 27-1-5-3.

(3) IC 27-1-6-15.

(4) IC 27-1-7-14 through IC 27-1-7-16.

(5) IC 27-1-7-21 through IC 27-1-7-23.

(6) IC 27-1-9.

(7) IC 27-1-13-3 through IC 27-1-13-4.

(8) IC 27-1-13-6 through IC 27-1-13-9.

(9) IC 27-1-20-1.

(10) IC 27-1-20-4.

(11) IC 27-1-20-6.

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(12) IC 27-1-20-9 through IC 27-1-20-11.

(13) IC 27-1-20-14.

(14) IC 27-1-20-19 through IC 27-1-20-21.

(15) IC 27-1-20-23 through IC 27-1-20-24.

(16) IC 27-1-20-30.

(17) IC 27-1-22.

(18) IC 27-4-1.

(19) IC 27-6-1.1-2.

(20) IC 27-7-2.

(21) IC 27-9.

Sec. 9. (a) A farm mutual insurance company shall hold an annual meeting of the policyholders of the farm mutual insurance company on the date, time, and location set forth in the articles of incorporation of the farm mutual insurance company. If the articles of incorporation do not specify the date, time, and location of the annual meeting, the meeting shall be held on the first Monday in April at the registered principal office of the farm mutual insurance company.

(b) A quorum for purposes of an annual policyholder meeting must be defined in a farm mutual insurance company's articles of incorporation.

(c) Each policyholder of a farm mutual insurance company is entitled to one (1) vote on any issue voted upon at a policyholder meeting.

Sec. 10. (a) A farm mutual insurance company shall elect a board of directors consisting of at least five (5) policyholders.

(b) To be elected to the board of directors of a farm mutual insurance company, an individual must be the owner of a policy issued by the farm mutual insurance company.

Sec. 11. (a) Unless a farm mutual insurance company's articles of incorporation specify otherwise, a director of a farm mutual insurance company must be elected at the company's annual policyholder meeting by the affirmative vote of a majority of:

(1) the policyholders present and voting; and

(2) the policyholders voting by proxy, if voting by proxy is allowed by the company's articles of incorporation.

(b) The term of office of a director must be at least one (1) year but not more than five (5) years. A farm mutual insurance company's articles of incorporation may provide for the classification of directors into three (3) groups, and the terms of the directors may be staggered. A vacancy on the board of directors may be filled for the unexpired term through an appointment made

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1 by the remaining directors.

2 (c) The board of directors of a farm mutual insurance company
3 shall, by vote of a majority of the directors, elect the officers
4 designated in the farm mutual insurance company's bylaws. The
5 directors may also elect any additional officers that the directors
6 determine are necessary. An officer elected under this subsection
7 is not required to be a director.

8 (d) The term of an officer elected under subsection (c) may not
9 be less than one (1) year or more than three (3) years. An outgoing
10 officer shall hold office until the officer's successor is either elected
11 or selected and qualified.

12 (e) The board of directors of a farm mutual insurance company
13 shall hold a separate meeting of the board of directors immediately
14 after the farm mutual insurance company's annual meeting.

15 Sec. 12. (a) Unless a farm mutual insurance company's articles
16 of incorporation specify otherwise, the articles of incorporation of
17 a farm mutual insurance company may be amended by an
18 affirmative vote of two-thirds (2/3) of its policyholders who are
19 voting in person or by proxy at any policyholder meeting if the
20 policyholders are given at least thirty (30) days notice of:

21 (1) the meeting; and

22 (2) the subject material of the proposed amendments.

23 (b) After a farm mutual insurance company has adopted an
24 amendment to its articles of incorporation, three (3) copies of the
25 amendment must be filed with the commissioner.

26 (c) The commissioner shall determine whether to approve the
27 amendment and, if the amendment is approved, shall return a copy
28 of the filed amendment and a certificate of approval to the farm
29 mutual insurance company.

30 Sec. 13. (a) Bylaws of a farm mutual insurance company may be
31 amended by the company in accordance with the company's
32 articles of incorporation. All amendments to the bylaws must be
33 filed with the commissioner.

34 (b) Bylaws may not be inconsistent with this article, any other
35 applicable laws, or the company's articles of incorporation.

36 Sec. 14. The commissioner may charge a farm mutual insurance
37 company a reasonable fee, as provided in IC 27-1-3-15, for a filing
38 under this article.

39 Sec. 15. The commissioner may:

40 (1) issue a certificate of authority to a company to do business
41 as:

42 (A) a standard company; or

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- 1 (B) an extended company; and
 2 (2) require a farm mutual insurance company to take
 3 appropriate remedial action as provided in IC 27-9 if the
 4 commissioner considers the action necessary to protect a
 5 policyholder.

6 Sec. 16. (a) A farm mutual insurance company may not deliver
 7 or issue for delivery a policy or an endorsement or rider to a policy
 8 until a copy of the form and the rates charged for the policy are
 9 filed with and approved by the commissioner.

10 (b) A farm mutual insurance company may use any form or rate
 11 filed with the commissioner unless the commissioner notifies the
 12 company in writing that the form is disapproved within thirty (30)
 13 days after the commissioner's receipt of the rate or form. The
 14 commissioner may disapprove a rate or form for the following
 15 reasons:

- 16 (1) An inconsistency with this article or any other applicable
 17 state law.
 18 (2) A provision that is:
 19 (A) deceptive;
 20 (B) ambiguous; or
 21 (C) misleading.

22 (c) If the commissioner disapproves a rate or form under this
 23 section, the commissioner must notify the farm mutual insurance
 24 company of the reason why the rate or form was disapproved. The
 25 farm mutual insurance company may request a hearing before the
 26 commissioner under IC 4-21.5 concerning the disapproval.

27 (d) A farm mutual insurance company may seek judicial review
 28 of the commissioner's disapproval of a rate or form under this
 29 section under IC 4-21.5-5.

30 (e) The commissioner may charge a farm mutual insurance
 31 company a reasonable fee as provided in IC 27-1-3-15 for the filing
 32 of a rate or form.

33 Sec. 17. (a) The commissioner or the commissioner's appointed
 34 agent under IC 27-1-3.1 may examine the affairs of a farm mutual
 35 insurance company.

36 (b) In an examination under this section, the commissioner may
 37 inquire into the manner in which a farm mutual insurance
 38 company conducts and manages the affairs of the farm mutual
 39 insurance company.

40 (c) The commissioner may:
 41 (1) require and compel the production of documents, records,
 42 books, papers, contracts, or any other evidence; and

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(2) compel the attendance of, and examine under oath, any director, officer, agent, employee, solicitor, or attorney of the farm mutual insurance company or any other person; about any business affairs, the financial condition of the business, the management of the business, actions taken by the directors, officers, or employees, or any other related matter.

(d) The commissioner may revoke the farm mutual insurance company's certificate of authority if the farm mutual insurance company refuses to allow the commissioner to examine the farm mutual insurance company.

(e) The commissioner may examine the following:

(1) A farm mutual insurance company's articles of incorporation and any amendments to the articles of incorporation.

(2) A farm mutual insurance company's bylaws and any amendments to the bylaws.

(3) A farm mutual insurance company's forms.

(4) Any documents or reports that a farm mutual insurance company is required to file annually with the commissioner.

(5) A farm mutual insurance company's petitions for merger.

(6) A farm mutual insurance company's petitions for transfer.

(f) The commissioner shall examine the records, books, and affairs of the farm mutual insurance company and issue a report of the commissioner's findings to the farm mutual insurance company if:

(1) the commissioner determines, as the result of an examination under this section or on the basis of any other knowledge or information in the commissioner's possession, that a farm mutual insurance company has conducted or is conducting the farm mutual insurance company's business in a manner that is:

(A) contrary to laws applying to farm mutual insurance companies; or

(B) detrimental to policyholder interests; or

(2) the farm mutual insurance company requests an examination through a resolution adopted by the farm mutual insurance company's policyholders at any meeting.

(g) The commissioner may charge a farm mutual insurance company that is examined under this section for the costs of conducting the examination.

(h) The commissioner may take any action that may protect a policyholder's interest if the commissioner determines that a farm

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1 mutual insurance company is conducting business in a manner that
2 is:

- 3 (1) contrary to laws applying to farm mutual insurance
4 companies; or
5 (2) detrimental to policyholder interests.

6 Sec. 18. (a) If the commissioner determines from:

- 7 (1) any statement filed by a farm mutual insurance company;
8 (2) an examination under section 17 of this chapter; or
9 (3) any other information obtained by the commissioner;

10 that a farm mutual insurance company is conducting its business
11 in an unsafe manner or that the farm mutual insurance company's
12 assets are insufficient to justify continuing the business, the
13 commissioner shall send written notice of the commissioner's
14 concerns regarding the farm mutual insurance company to the
15 officers and directors of the farm mutual insurance company.

16 (b) Not more than thirty (30) days after receiving a notice under
17 subsection (a), the farm mutual insurance company's officers and
18 directors shall:

- 19 (1) remedy; or
20 (2) establish a plan to remedy;

21 the commissioner's concerns.

22 (c) If the farm mutual insurance company does not remedy or
23 establish a plan to remedy the commissioner's concerns under
24 subsection (b) or if the commissioner determines that the
25 continuation of the farm mutual insurance company is not in the
26 best interests of the policyholders, the commissioner shall institute
27 proceedings in the circuit court of the county in which the farm
28 mutual insurance company has its principal office to enjoin the
29 farm mutual insurance company from conducting any further
30 business transactions.

31 (d) If the commissioner seeks a permanent injunction against
32 the farm mutual insurance company under subsection (c), the
33 commissioner shall also institute proceedings to settle and wind up
34 the affairs of the farm mutual insurance company and liquidate
35 and dissolve the farm mutual insurance company, as provided in
36 IC 27-9.

37 Sec. 19. (a) If a judgment is obtained in an Indiana court against
38 a farm mutual insurance company and:

- 39 (1) the judgment is:
40 (A) not appealed; or
41 (B) appealed, but an appeal bond is not posted; and
42 (2) the judgment remains unsatisfied for more than sixty (60)

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1 days;
2 the party that obtained the judgment may file for injunctive relief
3 in the court in which the judgment was rendered.

4 (b) In a proceeding initiated under subsection (a) by the party
5 that obtained a judgment against a farm mutual insurance
6 company, the court may issue an injunction against the farm
7 mutual insurance company to enjoin the farm mutual insurance
8 company from doing new business in Indiana until the judgment
9 is fully satisfied.

10 Sec. 20. (a) A person, including a person described in subsection
11 (b), that has a risk that is insurable under this article in a territory
12 in which a farm mutual insurance company operates may apply for
13 insurance coverage with the farm mutual insurance company. If
14 the farm mutual insurance company accepts the person as a
15 policyholder, the person becomes a policyholder of that company
16 and is entitled to all the rights and privileges of a policyholder.

17 (b) Any of the following that own property within the territory
18 of a farm mutual insurance company may apply for insurance,
19 enter into an agreement for a policy, and hold a policy issued by a
20 farm mutual insurance company:

- 21 (1) A public corporation.
- 22 (2) A private corporation.
- 23 (3) A quasi-corporation.
- 24 (4) An estate.
- 25 (5) An association.

26 (c) Any:

- 27 (1) officer;
- 28 (2) trustee;
- 29 (3) board member; or
- 30 (4) legal representative;

31 of an entity described in subsection (b) may be recognized as acting
32 for or on behalf of the entity for the purpose of membership.

33 Sec. 21. A person that solicits or negotiates insurance on behalf
34 of a farm mutual insurance company under this article must be
35 licensed as an insurance producer under IC 27-1-15.6.

36 Sec. 22. (a) Two (2) or more farm mutual insurance companies
37 may merge into one (1) farm mutual insurance company upon
38 approval of a merger plan by the policyholders of each farm
39 mutual insurance company as provided in subsection (b).

40 (b) Before a merger described in subsection (a) may take place,
41 the board of directors of each farm mutual insurance company
42 must approve a merger plan, and the merger plan must be

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1 approved by the affirmative vote of two-thirds (2/3) of the
 2 policyholders of each farm mutual insurance company who vote in
 3 person or by proxy.

4 (c) Before a meeting at which a proposed merger under this
 5 section may be considered:

6 (1) the policyholders of a farm mutual insurance company for
 7 which the merger is proposed must be given, by first class
 8 mail:

9 (A) written notice of the date, time, and location of the
 10 meeting;

11 (B) written notice that a proposed merger will be discussed
 12 and voted on at the meeting; and

13 (C) a copy or summary of the merger plan; and

14 (2) a general notice stating:

15 (A) the date, time, and location of the meeting; and

16 (B) that a proposed merger or transfer will be discussed
 17 and voted on at the meeting;

18 must be published in a newspaper of general circulation in the
 19 county in which the principal office of the farm mutual
 20 insurance company is located.

21 Sec. 23. (a) Each farm mutual insurance company that decides
 22 to merge under section 22 of this chapter must file the following
 23 documents with the commissioner:

24 (1) A petition for merger.

25 (2) The farm mutual insurance company's merger plan.

26 (3) Articles of merger.

27 (4) A copy of the minutes of any meeting at which the merger
 28 plan was approved.

29 (5) Proof that the policyholders were given proper notice of
 30 the meeting at which the merger was considered as required
 31 under section 22 of this chapter.

32 (b) The commissioner shall:

33 (1) review a filing submitted under subsection (a); and

34 (2) schedule a hearing under IC 4-21.5 if the commissioner
 35 considers a hearing necessary.

36 The commissioner may waive a hearing under this subsection if the
 37 commissioner determines that a proposed merger does not
 38 prejudice the interests of policyholders of the farm mutual
 39 insurance company.

40 (c) If the commissioner determines under subsection (b) that a
 41 hearing is necessary, the commissioner shall issue a notice of
 42 hearing to the farm mutual insurance company that filed the

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petition for merger. The commissioner may require the farm mutual insurance company to provide the farm mutual insurance company's policyholders with written notice of the hearing, including the date, time, and place of the hearing.

(d) If the commissioner requires a farm mutual insurance company to provide its policyholders with notice of a hearing under subsection (c), the notice must meet the following requirements:

(1) Be published in at least two (2) daily newspapers that the commissioner may designate.

(2) Be published in the newspapers designated under subdivision (1):

(A) not less than one (1) time per week;

(B) for two (2) successive weeks; and

(C) on the same day of the week.

(3) The last publication of notice must appear not more than five (5) calendar days before the date of the hearing.

(e) The commissioner may require a farm mutual insurance company to provide more notice than is required by subsection (d) if the commissioner determines that more notice is required under the circumstances concerning the farm mutual insurance company.

(f) In a hearing conducted under this section, the commissioner may examine a farm mutual insurance company's business affairs by:

(1) requiring and compelling the production of documents, records, books, papers, contracts, or any other evidence; and

(2) compelling the attendance of, and examining under oath, a director, an officer, an agent, an employee, a solicitor, or an attorney of the farm mutual insurance company, or any other person.

(g) A person who has an interest in a hearing conducted under this section may appear and testify at the hearing.

(h) The commissioner shall approve and authorize a proposed merger if the commissioner determines the following:

(1) That the interests of policyholders of the merging farm mutual insurance companies are properly protected.

(2) That no reasonable objections to the proposed merger exist.

(i) The commissioner may order a modification of the merger plan or articles of merger for a proposed merger if the commissioner determines that the modification is in the best interests of policyholders.

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(j) A farm mutual insurance company that files a petition for merger shall pay the costs of a hearing under this section.

Sec. 24. (a) The commissioner shall establish the time frame in which a farm mutual insurance company must perform the terms of a merger plan approved under section 23 of this chapter.

(b) After a farm mutual insurance company that is a party to a merger under sections 22 and 23 of this chapter performs the terms of the merger plan, the surviving farm mutual insurance company shall notify the commissioner in writing of the surviving farm mutual insurance company's compliance with the merger plan.

(c) The commissioner shall determine whether the terms of a merger plan are performed adequately by a farm mutual insurance company that is a party to a merger under sections 22 and 23 of this chapter. If the commissioner determines that the terms of the merger plan are met, the commissioner shall issue the following to the surviving farm mutual insurance company:

(1) A certificate of merger.

(2) A certified copy of the certificate of merger.

(3) A certified copy of the articles of merger.

(d) If the commissioner determines that the terms of the merger plan are not met, the commissioner shall hold a hearing under IC 4-21.5.

(e) The commissioner may charge a farm mutual insurance company the fee set forth in IC 27-1-3-15 for a filing made under this section.

Sec. 25. Upon the commissioner's issuance of a certificate of merger under section 24 of this chapter, the farm mutual insurance companies that are parties to the merger plan become a single surviving farm mutual insurance company. The separate existence of each farm mutual insurance company that is a party to the merger plan ceases upon the issuance of the certificate of merger.

Sec. 26. (a) A surviving farm mutual insurance company described in section 25 of this chapter:

(1) has all the:

(A) rights;

(B) title;

(C) interests;

(D) privileges;

(E) immunities; and

(F) powers; and

(2) is subject to all of the duties and liabilities; of a farm mutual insurance company organized under this article.



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(b) The:

- (1) real property;
- (2) personal property;
- (3) mixed property;
- (4) debts; and
- (5) every other interest;

that belongs to a farm mutual insurance company that is a party to a merger under this chapter is transferred to and vested in the surviving farm mutual insurance company. Rights of creditors or liens upon property of a merging farm mutual insurance company are not affected by the merger.

Sec. 27. A merger under sections 22 through 26 of this chapter is effective upon the commissioner's issuance of a certificate of merger, and the articles of incorporation of the surviving farm mutual insurance company are considered to be amended to the extent necessary to make the articles of incorporation conform with the articles of merger filed under section 23 of this chapter.

Sec. 28. (a) A person, an organization, or a corporation that intends to enter into a contract for the exclusive or dominant right to manage or control a farm mutual insurance company shall file notice of the contract with the commissioner at least thirty (30) days before entering into the contract.

(b) The commissioner may approve a contract or proposed contract described in subsection (a) only if the contract is not detrimental to:

- (1) the policyholders of the farm mutual insurance company;
- or
- (2) the public.

(c) If the commissioner disapproves a contract or proposed contract described in subsection (a), the commissioner shall provide written notice of the disapproval to the parties to the contract. A person, organization, or corporation that entered into a contract described in subsection (a) may not manage or control the farm mutual insurance company under the contract after receiving notice of the commissioner's disapproval of the contract.

(d) A person, an organization, or a corporation that enters into a contract for the exclusive or dominant right to manage or control a farm mutual insurance company is the managing general agent (as defined in IC 27-1-33-4) of the farm mutual insurance company and shall comply with any requirement of a managing general agent under IC 27.

Sec. 29. (a) If the commissioner determines, after notice and a



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1 hearing under IC 4-21.5, that a farm mutual insurance company
 2 has violated any provision of this article or any rule or order issued
 3 under this article, the commissioner may issue an order requiring
 4 the farm mutual insurance company to cease and desist from the
 5 unlawful practice or to take any affirmative action that the
 6 commissioner considers necessary to carry out the purposes of this
 7 article.

8 (b) Before the commissioner may issue a cease and desist order
 9 under subsection (a):

10 (1) a copy of the proposed order; and

11 (2) an order to the farm mutual insurance company to show
 12 cause as to why the cease and desist order should not be
 13 issued;

14 must be served on the farm mutual insurance company by certified
 15 mail or by personal service to the farm mutual insurance
 16 company's principal office. An order to show cause must state that
 17 the farm mutual insurance company is entitled to request, in
 18 writing, a hearing before the commissioner not more than fifteen
 19 (15) days after the date of service of the order to show cause. If the
 20 farm mutual insurance company does not request a hearing less
 21 than sixteen (16) days after service of the order to show cause, the
 22 commissioner shall issue the cease and desist order.

23 (c) Upon receiving a request for a hearing under subsection (b),
 24 the commissioner shall set a date, time, and place for the hearing.
 25 The date must be at least ten (10) days but not more than fifteen
 26 (15) days after the commissioner's receipt of the request for the
 27 hearing, unless the parties agree upon another date.

28 (d) The commissioner shall give notice of the date, time, and
 29 place of the hearing to the farm mutual insurance company at least
 30 five (5) days before the hearing. The notice shall inform the farm
 31 mutual insurance company of the nature and source of any adverse
 32 evidence procured by the commissioner.

33 Sec. 30. A farm mutual insurance company may be represented
 34 by counsel at a hearing held under section 29 of this chapter. The
 35 farm mutual insurance company shall be given the opportunity at
 36 the hearing to submit written and oral evidence that supports the
 37 farm mutual insurance company's belief that the order to cease
 38 and desist should not be issued.

39 Sec. 31. Not more than ten (10) days after the date that a
 40 hearing under section 29 of this chapter concludes, the
 41 commissioner shall issue a ruling on the subject of the hearing and
 42 notify the farm mutual insurance company of the ruling. The

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1 commissioner may do the following:

2 (1) Issue the proposed cease and desist order.

3 (2) Issue a modified cease and desist order.

4 (3) Determine not to issue a cease and desist order.

5 Sec. 32. (a) The decision, determination, or order of the
6 commissioner under section 31 of this chapter is subject to judicial
7 review under IC 4-21.5-5.

8 (b) If a farm mutual insurance company does not seek judicial
9 review of the commissioner's determination to issue a cease and
10 desist order under section 31 of this chapter within thirty (30) days
11 after the commissioner notifies the farm mutual insurance
12 company of the commissioner's determination, the cease and desist
13 order is final.

14 (c) If the farm mutual insurance company seeks judicial review
15 of the commissioner's determination under section 31 of this
16 chapter and the commissioner's determination is upheld, the cease
17 and desist order is final.

18 Sec. 33. If a farm mutual insurance company willfully violates
19 any provision of a cease and desist order, the commissioner may do
20 the following:

21 (1) Impose a civil penalty on the farm mutual insurance
22 company of not more than ten thousand dollars (\$10,000).

23 (2) Suspend or revoke the farm mutual insurance company's
24 certificate of authority.

25 (3) Institute proceedings to enjoin the farm mutual insurance
26 company from conducting further business.

27 (4) Institute proceedings to wind up the affairs of the farm
28 mutual insurance company.

29 Sec. 34. (a) A farm mutual insurance company may not waive:

30 (1) a term of an insurance policy; or

31 (2) a right or defense of the farm mutual insurance company;
32 unless the farm mutual insurance company states in a letter or
33 other written or printed document to the policyholder that the
34 farm mutual insurance company intends to specifically waive the
35 provision, condition, right, or defense.

36 (b) The letter or other written or printed document required
37 under subsection (a) must include the signature of an officer or
38 other representative of the farm mutual insurance company who
39 is authorized to execute the particular type of waiver.

40 (c) A letter or other written or printed document under this
41 section is the only admissible evidence of a waiver by the farm
42 mutual insurance company.



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1 **Sec. 35. (a)** A policyholder of a farm mutual insurance company
 2 operating on a premium plus assessment basis under this article is
 3 liable for the policyholder's share of the amount necessary to:

4 (1) pay the losses and necessary expenses incurred by the
 5 farm mutual insurance company; and

6 (2) maintain an adequate reserve or safety fund as determined
 7 by the farm mutual insurance company's directors;
 8 while the policyholder's insurance policy is in effect.

9 **(b)** Notwithstanding subsection (a), a farm mutual insurance
 10 company must limit a policyholder's contingent liability during any
 11 one (1) year to an amount of three percent (3%) or less of the
 12 insurance carried by the policyholder. The farm mutual insurance
 13 company must set forth this limitation in the farm mutual
 14 insurance company's bylaws.

15 **Sec. 36. (a)** A farm mutual insurance company must collect an
 16 assessment from a policyholder in the manner prescribed by the
 17 farm mutual insurance company's bylaws.

18 **(b)** After a farm mutual insurance company that operates on an
 19 assessment basis receives:

20 (1) notice of any loss or damage to a policyholder's property;
 21 or

22 (2) a judgment against the farm mutual insurance company;
 23 the directors of the farm mutual insurance company shall verify
 24 the loss, damage, or judgment and shall assess each policyholder an
 25 amount in proportion to the amount of risk the policyholder has
 26 with the farm mutual insurance company.

27 **Sec. 37. (a)** If a policyholder upon whom an assessment has been
 28 imposed fails to pay the assessment, the farm mutual insurance
 29 company may:

30 (1) suspend the farm mutual insurance company's liability for
 31 loss under the policyholder's policy for the time in which the
 32 assessment is not paid; or

33 (2) cancel the policyholder's policy if the assessment is not
 34 paid within thirty (30) days after notice of the assessment is
 35 sent to the policyholder.

36 The farm mutual insurance company may deduct the assessment
 37 from the policyholder's deposit before returning the remainder of
 38 the deposit, if any, to the policyholder.

39 **(b)** If an assessment is paid by the policyholder after the farm
 40 mutual insurance company takes an action under subsection (a),
 41 the farm mutual insurance company may reinstate the policy from
 42 the date on which the payment is received, but a deduction or

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1 credit may not be made in any assessment because of the
2 suspension of the policy.

3 (c) A farm mutual insurance company may file judicial
4 proceedings to compel a policyholder to pay an imposed
5 assessment.

6 Sec. 38. (a) A policyholder is not liable for any assessment of
7 losses or expenses that are incurred by a farm mutual insurance
8 company after the policyholder has terminated the policyholder's
9 policy.

10 (b) A policyholder is not liable for any assessment for
11 obligations incurred by a farm mutual insurance company before
12 the policyholder terminated the policy on which the assessment is
13 made unless the farm mutual insurance company gives the
14 policyholder notice of the assessment not more than one (1) year
15 after the date of termination of the policy.

16 Sec. 39. (a) A premium plus assessment policy must expressly
17 and prominently state on the face page of the policy that the policy
18 is a premium plus assessment policy.

19 (b) A suit or action for a loss under a premium plus assessment
20 policy may not be commenced until:

21 (1) the loss is due in accordance with the policy; or

22 (2) not less than sixty (60) days after proof of loss was given to
23 the farm mutual insurance company that issued the premium
24 plus assessment policy.

25 (c) The requirements that a policyholder must meet in order to
26 sustain a legal cause of action under this section must be disclosed
27 clearly and prominently in the premium plus assessment policy.

28 (d) Notwithstanding IC 34-11-2-11, the statute of limitations for
29 a claim on a premium plus assessment policy under this section is
30 twelve (12) months after the date of the loss.

31 (e) The statute of limitations for a claim on a nonassessment
32 policy is subject to the statutes of limitations applicable to a similar
33 cause of action under Indiana law.

34 Sec. 40. (a) A farm mutual insurance company that operates on
35 a premium plus assessment basis must pay all losses and judgments
36 of the farm mutual insurance company from premiums received or
37 amounts collected on promissory notes. The amount:

38 (1) deducted from a policyholder's premium paid; or

39 (2) demanded from a policyholder's promissory note;

40 must bear the same relationship to the total loss as the
41 policyholder's total premium bears to the total premiums collected
42 in the calendar year that the loss is incurred.

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(b) If the funds collected under subsection (a) are insufficient to cover the loss or judgment, the directors of the farm mutual insurance company may assess each policyholder in the same manner. However, a farm mutual insurance company may not assess its policyholders more than one (1) time in a calendar year for losses incurred by the farm mutual insurance company.

(c) The directors of a farm mutual insurance company described in this section may borrow enough funds to pay losses until the directors may assess the farm mutual insurance company's policyholders.

(d) A farm mutual insurance company described in this section may cancel a policyholder's policy under this section if the policyholder fails to pay any assessment within thirty (30) days after notification by the farm mutual insurance company of the assessment.

Sec. 41. (a) A farm mutual insurance company may borrow money for the payment of accrued losses and expenses.

(b) A farm mutual insurance company that has borrowed money under subsection (a) must assess its policyholders the full amount necessary to repay the loan in full in the next assessment after borrowing the money. Unless the commissioner authorizes an exemption, the assessment must be levied within twelve (12) months after incurring the losses or expenses paid by the farm mutual insurance company through the loan.

Sec. 42. A farm mutual insurance company may cancel, in whole or in part, a policyholder's policy after giving the policyholder five (5) days written notice of the cancellation as specified by the policy.

Sec. 43. (a) A farm mutual insurance company may vote to discontinue its operations and settle its affairs under IC 27-1-10.

(b) Before a dissolution under subsection (a) may take place, the dissolution must be approved by the affirmative vote of seventy-five percent (75%) of the policyholders of the farm mutual insurance company voting in person or by proxy.

(c) Before a meeting at which a dissolution under this chapter is considered, the policyholders of a farm mutual insurance company must be given written notice, by first class mail, of the following:

(1) The date, time, and location of the meeting.

(2) That a proposed dissolution of the company will be discussed and voted on at the meeting.

(d) If the policyholders vote in the affirmative by the margin required by subsection (b) to dissolve the farm mutual insurance

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company, the company must designate a committee of three (3) members to do the following, within a designated period, on behalf of the company:

- (1) Liquidate the company's assets.
- (2) Pay off the company's debts and expenses.
- (3) Divide any surplus of the company among:
 - (A) persons who are policyholders of the company at the time of dissolution; and
 - (B) any person who held a policy issued by the company within the three (3) business years preceding the vote to dissolve the company.

(e) The company may extend the time that the committee designated under subsection (d) has to fulfill its duties.

(f) Upon completion of its duties, the committee designated under subsection (d) shall file a report of its proceedings and actions with the commissioner. Each member of the committee shall sign the report.

(g) If the commissioner approves the report filed under subsection (f), the commissioner shall issue a certificate of approval to the committee, and the farm mutual insurance company is considered dissolved and ceases to exist. The commissioner shall certify the liquidation and dissolution of the company to the secretary of state.

Sec. 44. (a) A director, an officer, a member, an agent, or an employee of a farm mutual insurance company shall not knowingly or intentionally, directly or indirectly, use, employ, or permit others to use or employ any money, funds, securities, or assets of the farm mutual insurance company for private profit or gain.

(b) A person who violates this section commits a Class C felony.

Sec. 45. This article does not prohibit a farm mutual insurance company from doing any of the following:

- (1) Distributing underwriting or investment gain to policyholders of a farm mutual insurance company.
- (2) Accumulating a reasonable policyholder surplus for the payment of losses or other expenses.

Sec. 46. The commissioner may adopt rules under IC 4-22-2 to implement this article.

Chapter 3. Standard Farm Mutual Insurance Companies

Sec. 1. (a) This chapter supplements the requirements set forth for a standard company in IC 27-5.1-2.

(b) This chapter does not permit a standard company to insure a policyholder of the farm mutual insurance company:



- (1) against loss to a motor vehicle owned by the member from any peril;
- (2) against liability resulting from the use of a motor vehicle owned by the member; or
- (3) for property loss in connection with a specific loan or other credit transaction.

Sec. 2. A standard company that is issued a certificate of authority under IC 27-5.1-2-15 may:

(1) perform the business of insurance on:

- (A) an assessable;**
- (B) a mutual; and**
- (C) a nonprofit;**

basis;

(2) insure the property of policyholders of the standard company against loss or damage that is caused by:

- (A) fire;**
- (B) windstorm;**
- (C) causes specified under an extended coverage provision; and**
- (D) other perils that are not specifically excluded in the policy form; and**

(3) insure the property of policyholders of the standard company against:

- (A) loss of use;**
- (B) loss of occupancy;**
- (C) loss of rents; and**
- (D) additional expenses;**

that result from direct loss or damage to covered property.

Sec. 3. A standard company may engage in the business of insurance in any location in Indiana other than a first class city. However, a standard company may continue to insure property in a first class city in Indiana if the policy under which the property is insured was originally issued before July 1, 2002, or if the policy was originally issued before the city became a first class city.

Sec. 4. (a) A standard company may not insure property located outside the standard company's territory, as described in the standard company's articles of incorporation, unless the standard company meets the following requirements for expansion:

- (1) A standard company with annual direct written premiums that total not less than one hundred thousand dollars (\$100,000) may expand the territory in which the standard company insures property to not more than ten (10) counties**



1 if the expansion is approved by the affirmative vote of a
2 majority of the standard company's:

3 (A) board of directors; or

4 (B) policyholders present and voting at a meeting of the
5 policyholders.

6 (2) A standard company with annual direct written premiums
7 that total not less than two hundred fifty thousand dollars
8 (\$250,000) may expand the territory in which the standard
9 company insures property to more than ten (10) counties if
10 the expansion is approved by the affirmative vote of a
11 majority of the standard company's:

12 (A) board of directors; or

13 (B) policyholders present and voting at a meeting of the
14 policyholders.

15 (b) The net retention per risk of a standard company may not
16 exceed two-tenths percent (0.2%) of the standard company's
17 insurance in force.

18 **Sec. 5.** A standard company may issue a policy insuring against
19 loss or damage to property of a policyholder of the standard
20 company from the perils specified in section 2 of this chapter in
21 any county located in Indiana if the standard company maintains
22 a policyholder surplus or reinsurance that the commissioner
23 determines is sufficient to protect the financial stability of the
24 standard company.

25 **Sec. 6. (a)** A standard company shall, not later than March 1,
26 prepare and file with the commissioner an annual statement:

27 (1) that is on a form prescribed by the commissioner;

28 (2) that is verified by an affidavit of the:

29 (A) president; and

30 (B) secretary;

31 of the board of the standard company and individuals who are
32 authorized to do business on behalf of the standard company;
33 and

34 (3) that reflects the condition of the standard company as of
35 the end of the calendar year immediately preceding the date
36 of the annual statement.

37 (b) An annual statement prepared and filed under subsection (a)
38 must be presented at the annual meeting of the standard company.

39 (c) An annual statement filed under subsection (a) must be
40 accompanied by the filing fee set forth under IC 27-1-3-15.

41 **Chapter 4. Extended Farm Mutual Insurance Companies**

42 **Sec. 1.** An extended company is subject to the requirements of

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1 IC 27-5.1-2 and this chapter.

2 Sec. 2. (a) A farm mutual insurance company that was
3 authorized to provide insurance in Indiana on June 30, 2002, may
4 elect to obtain a certificate of authority as an extended company.

5 (b) An election under subsection (a) is made by:

6 (1) an affirmative vote by the board of directors of the farm
7 mutual insurance company:

8 (A) on a resolution to convert to an extended company;
9 and

10 (B) an amendment of the articles of incorporation of the
11 farm mutual insurance company; and

12 (2) filing the resolution and amended articles of incorporation
13 with the commissioner.

14 (c) The commissioner shall, upon:

15 (1) receiving the filing of a resolution and amended articles of
16 incorporation of a farm mutual insurance company under
17 subsection (b); and

18 (2) a determination by the commissioner that the farm mutual
19 insurance company is in compliance with the requirements of
20 this article and any other applicable law;

21 issue an amended certificate of authority to the farm mutual
22 insurance company recognizing the farm mutual insurance
23 company as an extended company.

24 (d) A farm mutual insurance company, after receiving an
25 amended certificate of authority under subsection (c):

26 (1) is subject to the requirements of this chapter; and

27 (2) may commence the business of insurance as an extended
28 company.

29 Sec. 3. An extended company may:

30 (1) insure the property of policyholders of the extended
31 company against loss or damage that is caused by:

32 (A) fire;

33 (B) windstorm;

34 (C) causes specified under an extended coverage provision;
35 and

36 (D) other perils that are specified in the policy form;

37 (2) insure the property of policyholders of the extended
38 company against:

39 (A) loss of use;

40 (B) loss of occupancy;

41 (C) loss of rents; and

42 (D) additional expenses;

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- that result from direct loss or damage to covered property;
 (3) insure against loss or damage for which a member of the extended company is legally liable because of:
 (A) death or bodily injury to another person; and
 (B) damage to or destruction of property of another person, including loss of use of the property;
 (4) provide medical payments coverage under a standard liability insurance policy; and
 (5) provide motor vehicle insurance or other kinds of insurance that are approved by the commissioner.

Sec. 4. An extended company shall comply with the following financial and reinsurance requirements if the extended company provides the following certain types of insurance described in section 3 of this chapter:

- (1) To provide fire or windstorm insurance as described in section 3(1) and 3(2) of this chapter:
 (A) an extended company must maintain a policyholder surplus as required under IC 27-1-6-15; and
 (B) an extended company must maintain reinsurance that the commissioner determines to be sufficient to protect the financial stability of the extended company.
 (2) To provide liability insurance as described in section 3(3) of this chapter:
 (A) an extended company must maintain a policyholder surplus as required under IC 27-1-6-15; and
 (B) an extended company must maintain reinsurance that the commissioner determines to be sufficient to protect the financial stability of the extended company.
 (3) To provide insurance as described in section 3(5) of this chapter:
 (A) an extended company must maintain a policyholder surplus as required under IC 27-1-6-15; and
 (B) an extended company must maintain reinsurance that the commissioner determines to be sufficient to protect the financial stability of the extended company.

Sec. 5. (a) An extended company:

- (1) may collect a membership fee and initial premium charge that are prescribed by the board of directors of the extended company; and
 (2) shall collect, not less than annually, an amount that is sufficient to enable the extended company to:
 (A) pay losses and expenses; and

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(B) create and maintain a policyholder surplus in accordance with the articles of incorporation and bylaws of the extended company.

(b) Collections under subsection (a) are subject to the following requirements:

(1) Collections must be made through assessments or premiums charged by the extended company on certain policies issued by the extended company as determined by the board of directors of the extended company.

(2) A member of the extended company that holds a policy that is issued on the premium basis:

(A) shall pay the stipulated premium not later than the time at which the policy is issued; and

(B) may not be assessed.

(3) A member that holds a policy that is issued on a basis other than a premium basis:

(A) may be charged an advance assessment that is payable not later than the time at which the policy is issued, as determined by the board of directors of the extended company; and

(B) may be assessed if a further assessment is required under the articles of incorporation of the extended company.

(c) The terms and conditions of assessments made under this section must be clearly disclosed in the policy.

Sec. 6. If an extended company chooses to cancel or not to renew an existing automobile insurance policy, the extended company must comply with the requirements of IC 27-7-6.

Sec. 7. The following requirements apply to the policyholder surplus of an extended company:

(1) The articles of incorporation of the extended company must provide for the existence, maintenance, and use of the policyholder surplus.

(2) The policyholder surplus may be used only for the payment of losses and expenses considered necessary by the board of directors of the extended company.

(3) The existence or maintenance of the policyholder surplus does not relieve a policyholder of any assessment or other obligation that the:

(A) policyholder owes to the extended company; or

(B) extended company has levied against the policyholder.

(4) If the extended company is dissolved, the fund must be

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1 treated in the same manner as any other asset of the extended
2 company.

3 Sec. 8. An extended company may make investments in
4 accordance with IC 27-1-13-3.

5 Sec. 9. (a) An extended company shall, not later than March 1,
6 prepare and file with the commissioner an annual statement:

7 (1) that is on a form prescribed by the commissioner;

8 (2) that is verified by an affidavit of the:

9 (A) president; and

10 (B) secretary;

11 of the board of the extended company; and

12 (3) that reflects the condition of the extended company as of
13 the end of the calendar year immediately preceding the date
14 of the annual statement.

15 (b) An annual statement prepared and filed under subsection (a)
16 must be presented at the annual meeting of the extended company.

17 (c) An annual statement filed under subsection (a) must be
18 accompanied by the filing fee set forth in IC 27-1-3-15.

19 SECTION 5. IC 27-6-1.1-6 IS AMENDED TO READ AS
20 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 6. This chapter does not
21 apply to any of the parties to a contract of merger or consolidation
22 under ~~IC 27-5-4-3~~. **IC 27-5.1-2-22.**

23 SECTION 6. IC 27-6-2-1 IS AMENDED TO READ AS FOLLOWS
24 [EFFECTIVE JULY 1, 2002]: Sec. 1. Every ~~farmers'~~ **farm** mutual
25 insurance company authorized on or after March 11, 1955, to make the
26 kinds of insurance and reinsurance permitted under and pursuant to the
27 provisions of ~~IC 27-5-3~~ **IC 27-5.1-2** is hereby authorized to write,
28 make, or take, in addition to the kinds of reinsurance authorized under
29 ~~IC 27-5-3~~, **IC 27-5.1-2**, any kind or kinds of reinsurance on lines of
30 insurance or hazards which they cede and shall not write, make, or take
31 reinsurance on any hazard or lines of insurance that they do not
32 themselves cede to other reinsurers.

33 SECTION 7. IC 27-6-8-4 IS AMENDED TO READ AS FOLLOWS
34 [EFFECTIVE JULY 1, 2002]: Sec. 4. As used in this chapter, unless
35 otherwise provided:

36 (1) The term "account" means any one (1) of the three (3)
37 accounts created by section 5 of this chapter.

38 (2) The term "association" means the Indiana Insurance Guaranty
39 Association created by section 5 of this chapter.

40 (3) The term "commissioner" means the commissioner of
41 insurance of this state.

42 (4) The term "covered claim" means an unpaid claim which arises

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out of and is within the coverage and not in excess of the
 applicable limits of an insurance policy to which this chapter
 applies issued by an insurer, if the insurer becomes an insolvent
 insurer after the effective date (January 1, 1972) of this chapter
 and (a) the claimant or insured is a resident of this state at the
 time of the insured event or (b) the property from which the claim
 arises is permanently located in this state. "Covered claim" shall
 be limited as provided in section 7 of this chapter, and shall not
 include (1) any amount due any reinsurer, insurer, insurance pool,
 or underwriting association, as subrogation recoveries or
 otherwise. However, a claim for any such amount, asserted
 against a person insured under a policy issued by an insurer which
 has become an insolvent insurer, which if it were not a claim by
 or for the benefit of a reinsurer, insurer, insurance pool or
 underwriting association, would be a "covered claim" may be
 filed directly with the receiver or liquidator of the insolvent
 insurer, but in no event may any such claim be asserted in any
 legal action against the insured of such insolvent insurer; nor (2)
 any supplementary obligation including but not limited to
 adjustment fees and expenses, attorney fees and expenses, court
 costs, interest and bond premiums, whether arising as a policy
 benefit or otherwise, prior to the appointment of a liquidator; nor
 (3) any unpaid claim that is not both filed within one (1) year after
 an order of liquidation and permitted to share in liquidation
 distributions under IC 27-9-3-33 if the insolvent insurer is a
 domestic insurer or in accordance with the applicable provisions
 of the law of the state of domicile if the insolvent insurer is not
 a domestic insurer; nor (4) any claim by a person whose net worth
 at the time an insured event occurred was more than five million
 dollars (\$5,000,000); nor (5) a claim against a person insured by
 an insolvent insurer if the person's net worth at the time an
 insured event occurred was more than fifty million dollars
 (\$50,000,000); nor (6) any claim by a person who directly or
 indirectly controls, is controlled, or is under common control with
 an insolvent insurer on December 31 of the year before the order
 of liquidation. All covered claims filed in the liquidation
 proceedings shall be referred immediately to the association by
 the liquidator for processing as provided in this chapter.
 (5) The term "insolvent insurer" means (a) a member insurer
 holding a valid certificate of authority to transact insurance in this
 state either at the time the policy was issued or when the insured
 event occurred and (b) against whom a final order of liquidation,

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with a finding of insolvency, to which there is no further right of appeal, has been entered by a court of competent jurisdiction in the company's state of domicile. "Insolvent insurer" shall not be construed to mean an insurer with respect to which an order, decree, judgment or finding of insolvency whether preliminary or temporary in nature or order to rehabilitation or conservation has been issued by any court of competent jurisdiction prior to January 1, 1972 or which is adjudicated to have been insolvent prior to that date.

(6) The term "member insurer" means any person who is licensed or holds a certificate of authority under IC 27-1-6-18 or IC 27-1-17-1 to transact in Indiana any kind of insurance for which coverage is provided under section 3 of this chapter, including the exchange of reciprocal or inter-insurance contracts. The term includes any insurer whose license or certificate of authority to transact such insurance in Indiana may have been suspended, revoked, not renewed, or voluntarily surrendered. A "member insurer" does not include farmers' mutual insurance companies organized and operating pursuant to ~~IC 27-5,~~ **IC 27-5.1** other than ~~IC 27-5-3 and IC 27-5-4-2.~~ **a farm mutual insurance company to which IC 27-5.1-2-6 applies.**

(7) The term "net direct written premiums" means direct gross premiums written in this state on insurance policies to which this chapter applies, less return premiums thereon and dividends paid or credited to policyholders on such direct business. "Net direct premiums written" does not include premiums on contracts between insurers or reinsurers.

(8) The term "person" means an individual, corporation, limited liability company, partnership, reciprocal or inter-insurance exchange, association, or voluntary organization.

SECTION 8. IC 27-8-8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2. (a) As used in this chapter:

"Account" means one of the three (3) accounts created under section 3 of this chapter.

"Association" means the Indiana life and health insurance guaranty association created under section 3 of this chapter.

"Commissioner" refers to the commissioner of insurance.

"Contractual obligation" means an obligation under covered policies.

"Covered policy" means any policy or contract that is of a type described in section 1(a) of this chapter and is not excluded by section 1(b) of this chapter.



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1 "Impaired insurer" means a member insurer deemed by the
 2 commissioner to be potentially unable to fulfill its contractual
 3 obligations.

4 "Insolvent insurer" means a member insurer who becomes insolvent
 5 and is placed under a final order of liquidation, rehabilitation, or
 6 conservation by a court.

7 "Member insurer" means any person that is licensed or holds a
 8 certificate of authority to transact in Indiana any kind of insurance for
 9 which coverage is provided under this chapter. The term includes any
 10 insurer whose license or certificate of authority to transact such
 11 insurance in Indiana may have been suspended, revoked, not renewed,
 12 or voluntarily withdrawn but does not include the following:

- 13 (1) A medical and hospital service organization.
- 14 (2) A health maintenance organization under IC 27-13.
- 15 (3) A fraternal benefit society under IC 27-11.
- 16 (4) The Indiana Comprehensive Health Insurance Association or
- 17 any other mandatory state pooling plan or arrangement.
- 18 (5) An assessment company or any other person that operates an
- 19 assessment plan (as defined in IC 27-1-2-3(y)).
- 20 (6) An interinsurance exchange authorized by IC 27-6-6.
- 21 (7) A prepaid limited health service organization or a limited
- 22 service health maintenance organization under IC 27-13-34.
- 23 (8) A special service health care delivery plan under IC 27-8-7.
- 24 (9) A ~~farmer's farm~~ mutual insurance company under ~~IC 27-5-~~
- 25 **IC 27-5.1.**
- 26 (10) Any person similar to any person described in subdivisions
- 27 (1) through (9).

28 "Premiums" means direct gross insurance premiums and annuity
 29 considerations received on covered policies, less return premiums and
 30 considerations, and dividends paid or credited to policyholders on
 31 direct business. It does not include premiums and considerations on
 32 contracts between insurers and reinsurers. For purposes of assessments
 33 made under section 6 of this chapter, "premiums" for covered policies
 34 shall not be reduced on account of any limitation on benefits for which
 35 the association is obligated under section 5(1) of this chapter. However,
 36 "premiums" for assessment purposes does not include that portion of
 37 any premium exceeding five million dollars (\$5,000,000) for any one
 38 (1) unallocated annuity contract.

39 "Person" means any natural person, corporation, limited liability
 40 company, partnership, association, voluntary organization, trust,
 41 governmental organization or entity, or other business organization or
 42 entity.



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1 "Resident" means any person who resides in Indiana at the time the
 2 association becomes obligated for an impaired or insolvent insurer.
 3 Persons other than natural persons are considered to reside in the state
 4 where their principal place of business is located.

5 "Unallocated annuity contract" means an annuity contract or group
 6 annuity certificate that is not issued to and held by a natural person
 7 (excluding a natural person acting as a trustee), except to the extent of
 8 any annuity benefits guaranteed to a natural person by an insurer under
 9 the contract or certificate. For the purposes of section 1.5 of this
 10 chapter, an unallocated annuity contract shall not be considered a group
 11 covered policy.

12 (b) For purposes of this chapter, a policy, contract, or certificate is
 13 considered to be held by the person identified on the policy, contract,
 14 or certificate as the holder or owner of the policy, contract, or
 15 certificate.

16 SECTION 9. IC 34-30-17-1 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. This chapter applies
 18 to all insurers, including ~~farmers'~~ **farm** mutual insurance companies
 19 operating under ~~IC 27-5~~. **IC 27-5.1**.

20 SECTION 10. IC 27-5 IS REPEALED [EFFECTIVE JULY 1,
 21 2002].

22 SECTION 11. [EFFECTIVE JULY 1, 2002] **(a) Notwithstanding**
 23 **IC 27-5.1-2-22, as added by this act, before January 1, 2003, an**
 24 **insurance producer that solicits, negotiates, or sells policies issued**
 25 **by a standard farm mutual insurance company that held a**
 26 **certificate of authority to conduct insurance business in Indiana on**
 27 **June 30, 2002, may continue to solicit, negotiate, or sell the same**
 28 **insurance that the insurance producer was previously authorized**
 29 **to sell and is not required to take the examination required under**
 30 **IC 27-1-15.6.**

31 **(b) This SECTION expires January 1, 2003.**

32 SECTION 12. [EFFECTIVE JULY 1, 2002] **Any rate or form filed**
 33 **by a farm mutual insurance company before July 1, 2002, is valid**
 34 **and remains in effect notwithstanding the repeal of IC 27-5 and the**
 35 **addition of IC 27-5.1 by this act.**

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